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January 19, 2001

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

VIA HAND DELIVERY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

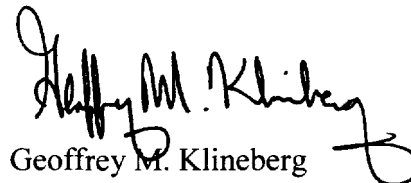
**Re: *Joint Application by Southwestern Bell for Provision of In-
Region, InterLATA Services in Kansas and Oklahoma,
CC Docket No. 00-217***

Dear Ms. Salas:

Southwestern Bell is hereby filing its Opposition to Sprint's Motion to Strike (filed Jan. 19, 2001). We are filing an original and four copies of this Opposition, together with an electronic version in Word 97 format. Please date-stamp the extra copy of this letter and return it to the individual delivering this package.

If you have any questions, please call me at 202-326-7928.

Sincerely,


Geoffrey M. Klineberg

Enclosures

cc: John Stanley

No. of Copies rec'd 014
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED

JAN 19 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Joint Application by SBC Communications
Inc., Southwestern Bell Telephone Company,
and Southwestern Bell Communications
Services, Inc. d/b/a Southwestern Bell Long
Distance for Provision of In-Region,
InterLATA Services in Kansas and Oklahoma

CC Docket No. 00-217

SOUTHWESTERN BELL'S OPPOSITION TO SPRINT'S MOTION TO STRIKE

Southwestern Bell hereby responds to the Motion to Strike of Sprint Communications Company L.P. ("Sprint") filed today, January 19, 2001.

In its Motion, Sprint argues that the Commission should not consider the information contained in Southwestern Bell's December 20, 2000, Ex Parte Letter because Sprint did not have adequate notice that the letter was filed and because the letter provided evidence concerning residential service in Kansas that consisted of "new information" in violation of the Commission's "complete-as-filed" principle. Neither of these arguments has any merit.

1. In its Public Notice issued after Southwestern Bell filed its Joint Application on October 26, 2000, the Commission made clear under the heading "Availability of Information" that Southwestern Bell "has voluntarily agreed to post several documents, including its application and supporting affidavits and substantive ex parte submissions, on the World Wide Web at www.sbc.com/Long_Distance/Home.html." Public Notice, DA 00-2414 (rel. Oct. 26, 2000), at 3 (emphasis added). Southwestern Bell has posted every ex parte submission on its web site.

The December 20, 2000, Ex Parte Letter was not, itself, confidential. Only the attachment contained data that was proprietary and confidential to particular CLECs. The heading at the top of the letter – “Confidential material contained in attachments” – indicated that the confidential status applied only to the attachment. Apparently, this heading resulted in the December 20, 2000, Ex Parte Letter’s not being posted on the Commission’s web site, although it was certainly in the record of this proceeding.

While Southwestern Bell regrets any confusion that this may have caused, Sprint was on notice that it could obtain the December 20, 2000, Ex Parte Letter from Southwestern Bell’s web site. The December 20, 2000, Ex Parte Letter was posted on SBC’s web site within a day of its having been filed at the Commission. Had Sprint simply checked that web site, it would have discovered that an ex parte filing had been made on that date, and that it contained confidential material in an attachment. Sprint could then have obtained that confidential attachment and reviewed it to ascertain whether it contained any relevant information.

2. There is no reason why this Commission should refuse to consider the information contained in the December 20, 2000, Ex Parte Letter. Southwestern Bell explained in its opening Brief (at 15) that “[a] number of carriers compete with SWBT [in Kansas] by serving both business and residential customers on a facilities basis.” Sprint took issue with this claim. Southwestern Bell therefore explained further in its Reply Brief (at 73) that Birch and Ionex are providing service to residential subscribers exclusively over their own facilities using the UNE Platform and that “SWBT is still investigating precisely how many of these UNE-P access lines are used to provide service to residential customers.” SWBT Reply Br. at 73 n.46. The only purpose of the December 20, 2000, Ex Parte Letter was to provide the Commission with the results of that investigation. Sprint was clearly on notice, therefore, that Southwestern Bell was

working on gathering additional data to provide further detail on the scope of Birch's and Ionex's facilities-based services.

Significantly, neither Birch nor Ionex has filed anything disputing Southwestern Bell's assertion that they are serving residential customers over the UNE Platform and that they are in the process of converting a substantial number of their existing residential resold lines to the UNE Platform. Both also provide resale and facilities-based service to their business customers. As Sprint, itself, concedes (Motion at 3), the CLECs themselves are in the best position to confirm or refute this claim. While it is certainly appropriate for Sprint to comment on Southwestern Bell's assertions regarding Sprint's own provision of business and residential service in Kansas, it is difficult to understand what special insight Sprint has with regard to other CLECs' provision of such services.

The December 20, 2000, Ex Parte Letter has nothing to do with Sprint. Sprint apparently wants to be considered the Track A "monitor" for Kansas, independently verifying the accuracy of available evidence concerning the scope and nature of each CLEC's provision of telecommunications services. But nothing under its rules requires this Commission to indulge Sprint's vision of self-appointed responsibility.

The CLECs who are actively providing service to both business and residential markets over their own facilities in Kansas have had a full opportunity to comment on the veracity of Southwestern Bell's evidence that they qualify as Track A carriers under section 271(c)(1)(A).^{*} The fact that Sprint may not have had the kind of opportunity it would have wanted to comment on Southwestern Bell's December 20, 2000, Ex Parte Letter – which, once again, contains no

^{*} Birch has already independently verified the accuracy of Southwestern Bell's claims with respect to Birch's own participation in the Kansas market, and whether or not that information is reliable is a question for the Commission to answer.

information about which Sprint has any particular knowledge – is hardly grounds to reject the evidence of facilities-based competition that the letter contains.

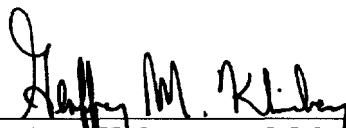
For these reasons, the Commission should deny Sprint's Motion to Strike Southwestern Bell's December 20, 2000, Ex Parte Letter.

Respectfully submitted,

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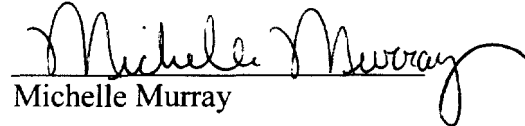

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January 19, 2001

CERTIFICATE OF SERVICE

I hereby certify that, on this 19th day of January, 2001, I caused copies of the foregoing Southwestern Bell's Opposition to Sprint's Motion to Strike to be served by hand delivery on the following:


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Federal Communications Commission

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